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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,566	12/19/2003	Silvia Marini	SCP-117	5050
42419	7590	11/22/2005	EXAMINER	
PAULEY PETERSEN & ERICKSON 2800 WEST HIGGINS ROAD SUITE 365 HOFFMAN ESTATES, IL 60195			COLE, ELIZABETH M	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/743,566

Applicant(s)

MARINI ET AL.

Examiner

Elizabeth M. Cole

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 12-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/5/04

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Information Disclosure Statement

1. The IDS filed 8/5/04 contains six Italian language documents. The specification refers to these documents by stating that they show articles comprising micro-fibers formed from polyester and/or polyamide and a polyurethane-type binder. The references have been considered to the extent that their relevance is set forth in the specification. Also, the reference to 3,889,292 appears to be to an unrelated document.

2. Applicant's election with traverse of Group I in the reply filed on 9/8/05 is acknowledged. The traversal is on the ground(s) that the process claims are directed to making the claimed product. This is not found persuasive because as set forth in the previous action, the product could be made by another and materially different invention such as using pre-dyed fibers.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is not clear what is meant by a "mélange-type" appearance. In claim 1, there is no antecedent basis for "the free isocyanate groups" in the last line of the claim. In claim 3, it is not clear whether the polycarbonate diol comprises a mixture of all the elements of the group set forth in lines 3-5 of claim 3, or if it comprises one of these elements mixed with one of the polyester polyols set forth in lines 7-8. Claim 6 refers to fibers having a weight of a certain denier. However, denier is weight per unit length and is a measure of fiber fineness. In claim

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10, it is not clear how using a particular type of needle would produce a textile having a mélange appearance.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belluci et al, U.S. Patent Application Publication 2003/0252254 in view of Higuchi et al, U.S. Patent No. 4,525,169. Belluci discloses a durable textile material comprising a needled nonwoven fabric comprising microfibers impregnated with a polyurethane binder which comprises both hard and soft segments, wherein the soft segments comprise a mixture of polycarbonate polyols and polyester polyols and the hard segments comprise urethane groups derived from the reaction of isocyanate with ureic polyols. See paragraphs 0019- 0020. Suitable polycarbonate diols and polyester polyols include those claimed. See paragraph 0021. The free isocyanate groups may comprise the claimed groups. See paragraph 0023. The polycarbonate diol and polyester diol can be present in a ratio of 82/20 to 40/60. See paragraph 0029. The materials are suitable for use in making artificial leather. Belluci differs from the claimed invention because Belluci does not disclose employing fibers having different degrees of dyeability. Higuchi et al teaches an artificial leather material comprising ultra fine fibers having a denier of between 0.0001 and 0.7. The fibers can be needled to form a

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fabric. See col. 3, lines 6-9. Higuchi et al teaches employing two different types of fibers having two different degrees of dyeability to make up the nonwoven. See col. 3, lines 23-38. Higuchi teaches that by using two different fibers having different dyeability that a mixed color effect can be obtained. Higuchi further teaches that the fabric can further be printed with various dyes and pigments to further enhance the appearance of the fabric. See col. 6, lines 19-46. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed fibers having different degrees of dyeability to form the fabric substrate in Belluci and to have further printed the dyed fabric, motivated by the teaching of Higuchi that this allows for the formation of fabrics having an enhanced appearance. With regard to the limitations regarding when the fibers are dyed and the type of needles employed, since the instant claims are drawn to a product, the burden is on Applicant to show that any process differences result in an unobvious difference in the claimed product.

6. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizoguchi et al, U.S. Patent No. 5,798,165 in view of Higuchi et al, U.S. Patent No. 4,525,169. Mizoguchi discloses a porous sheet comprising ultra fine fibers having a denier of 0.0005 to 3 denier, (col. 8, lines 44-54), which can be needle-punched, (col. 9, line 32), which is impregnated with a polyurethane binder. The polyurethane binder comprises a mixture of polycarbonate and polyester diols as the soft segment of the binder and a hard segment formed from an aromatic diisocyanate and ethylene glycol. Suitable components for the polycarbonate and polyester diols include those claimed. See col. 3, line 64 – col. 4, line 44. The isocyanate groups can be selected from the

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claimed groups. See col. 6, lines 58 – col. 7, line 11. With regard to the ratio of polycarbonate polyol and polyester polyol, since Mizoguchi teaches combining the polyols to form a polyurethane which had the most desirable characteristics of each, (see background of invention as well as col. 3, lines 44-62), it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected the ratio of the components through the process of routine experimentation in order to arrive at a polyurethane having the desired strength, elasticity, durability, etc. Mizoguchi differs from the claimed invention because Mizoguchi does not disclose employing fibers having different dyeability in the nonwoven fabric. Higuchi et al teaches an artificial leather material comprising ultra fine fibers having a denier of between 0.0001 and 0.7. The fibers can be needled to form a fabric. See col. 3, lines 6-9. Higuchi et al teaches employing two different types of fibers having two different degrees of dyeability to make up the nonwoven. See col. 3, lines 23-38. Higuchi teaches that by using two different fibers having different dyeability that a mixed color effect can be obtained. Higuchi further teaches that the fabric can further be printed with various dyes and pigments to further enhance the appearance of the fabric. See col. 6, lines 19-46. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed fibers having different degrees of dyeability to form the fabric substrate in Mizoguchi and to have further printed the dyed fabric, motivated by the teaching of Higuchi that this allows for the formation of fabrics having an enhanced appearance. With regard to the limitations regarding when the fibers are dyed and the type of needles employed, since the instant claims are drawn to a product, the burden is

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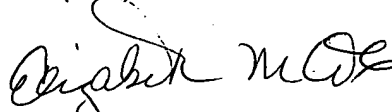
on Applicant to show that any process differences result in an unobvious difference in the claimed product.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.



Elizabeth M. Cole
Primary Examiner
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e.m.c